

B7
21. (Amended) A structure according to claim 1, wherein the additive is [removed] in an amount for about 0.001% to about 90% by weight.

B8
23. (Amended) A structure according to claim 1, wherein said amorphous regions have [same] crystalline order.

REMARKS

Reconsideration is respectfully requested in view of any changes to the claims and the remarks herein. Please contact the undersigned to conduct a telephone interview in accordance with MPEP 713.01 to resolve any remaining requirements and/or issues prior to sending another Office Action. Relevant portions of MPEP 713.01 are included on the signature page of this amendment.

The Examiner's reasons for rejection appear to be primarily based on the Examiner's belief that Applicants' invention is inherent in the cited references. For the same reasons as given in this Preliminary Amendment, Applicants disagree with the Examiner. The only new rejection is the rejection of Applicants' claim under 35 USC 102(e) as anticipated by US 5,804,100 the teaching of which is incorporated by reference at page 20 of the specification. The present application has been amended to be a CIP of co-pending US Application Serial No. 09/945,898 filed on 09-04-2001 which is a continuation of US Application Serial No. 08/911,262 filed on 08-14-1997 which is a continuation of US Application Serial No. 08/370127 filed on 01-09-1995 now issued on 09-08-1998 as US patent 5,804,100. The priority of the present application is to US Application Serial No. 60/007,688 filed on 11-29-1995. Thus, US 5,804,100 is not a 35 USC 102(e) reference to the present application.

Notwithstanding Applicants' disagreement with the Examiner, Applicants have amended the independent claims to recite:

"said polycrystalline material is characterized by a degree of crystallinity and a degree of amorphous regions, said degree of polycrystallinity and said degree of amorphous regions are selected by selecting the composition of said additive and the amount of said additive."

There is clearly no teaching, suggestion, motivation for or incentive for this recitation in the cited references. Support for the added language is found through the application, in particular in the last paragraph on page 1, last five lines and in Fig. 5. Even if a polycrystalline material is inherent in the teaching of the cited references, which Applicants believe is not the case, there is no recognition that the degree of crystallinity is selectable as claimed.

A terminal disclaimer of over US 5,932,143 and US 5,928,566 and US 6,210,606 and copending US Application Serial No. 09/208,528 will be submitted if appropriate on an indication of the allowability of the claims herein.

In view of the changes to the claims and the remarks herein, the Examiner is respectfully requested to reconsider the above-identified application. If the Examiner wishes to discuss the application further, or if additional information would be required, the undersigned will cooperate fully to assist in the prosecution of this application.

Please charge any fee necessary to enter this paper and any previous paper to deposit account 09-0468.

If the above-identified Examiner's Action is a final Action, and if the above-identified application will be abandoned without further action by applicants, applicants file a Notice of Appeal to the Board of Appeals and Interferences appealing the final rejection of the claims in the above-identified Examiner's Action. Please charge deposit account 09-0468 any fee necessary to enter such Notice of Appeal.

In the event that this amendment does not result in allowance of all such claims, the undersigned attorney respectfully requests a telephone interview at the Examiner's earliest convenience.

MPEP 713.01 states in part as follows:

Where the response to a first complete action includes a request for an interview or a telephone consultation to be initiated by the examiner, ... the examiner, as soon as he or she has considered the effect of the response, should grant such request if it appears that the interview or consultation would result in expediting the case to a final action.

Respectfully submitted,

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